

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

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|---------------------------|---|--------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | 3:08-CR-142 |
| |) | (PHILLIPS/SHIRLEY) |
| DAVID C. KERNELL, |) | |
| |) | |
| Defendant. |) | |

ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case is before the Court on the United States' Motion to Quash Subpoena to FBI Special Agents [Doc. 64], filed on July 15, 2009. In this motion, the Government sought to quash subpoenas issued for the testimony of two Federal Bureau of Investigation (FBI) agents at the July 16, 2009 hearing on the Defendant's suppression motion [Doc. 20]. On July 16, the Court declined to hold an evidentiary hearing on the motion at that juncture. The need for an evidentiary hearing was revisited in the Defendant's second suppression motion [Doc. 69] and at the December 3, 2009 hearing thereon. The Court also declined to hear any evidence at the December 3 hearing, finding it unnecessary to the Court's resolution of the motions. In its Report and Recommendation on the Defendant's suppression motions, the Court determined that an evidentiary hearing was not necessary because the resolution of the issues involved no contested issue of fact. In light of the

progression of this issue, the Court finds that the Government's motion to quash the agents' subpoenas is moot. Accordingly, the United States' Motion to Quash Subpoena to FBI Special Agents [**Doc. 64**], is **DENIED as moot**.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge